



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

SEP 30 2016

Dennis Litwinowicz, Project Manager  
Potesta Engineers and Environmental Consultants  
7012 MacCorkle Ave. SE  
Charleston, WV 25304

Re: Approval for Risk-Based PCB Self-implementing Remediation under 40 CFR §761.61(c) at the Poor Charlie and Company, Inc., Riverside Facility, Glasgow, Kanawha County, West Virginia

Dear Mr. Litwinowicz:

This is in response to Poor Charlie and Company, Inc.'s application for approval of a risk-based plan to address PCB-contaminated materials at its Riverside Facility in Glasgow, Kanawha County, West Virginia (the Site). The Site contains PCB-contaminated materials that exceed the allowable PCB levels under the federal PCB regulations at 40 CFR §761.61. The cleanup plan proposed by Poor Charlie and Company, Inc., (Poor Charlie) includes the following major activities:

- Excavation, consolidation and on-site disposal of PCB-contaminated soil and trammel material that currently exists at the Site. The maximum concentration of PCBs in the material to be consolidated is 500ppm;
- Off-site disposal of contaminated soils and trammel material that have concentration of greater than 500ppm;
- Installation of an impermeable surface cover (Engineered Barrier) over an engineered disposal cell(s);
- Establishment of institutional controls and deed restrictions, including recording and a Land Use Covenant to restrict exposure to soil, and to restrict certain uses of soil at the Site;
- Establishment of a long-term monitoring and maintenance plan for the surface cover and groundwater; and



- Coordination of remedial action with reuse of the Site as warranted.

On August 30, 2016, EPA published notice soliciting comments on the proposed Poor Charlie approval on EPA's website. No comments were received. EPA has determined that Poor Charlie's proposed plan is acceptable and will create no unreasonable risk when conducted in accordance with the Application and this Approval. Therefore, Poor Charlie may proceed with this project subject to the following conditions.

### **GENERAL CONDITIONS**

1. This Approval shall become effective on the date of signature by the Land and Chemicals Division Director of EPA Region III. Poor Charlie must provide written notification to EPA of its acceptance of, and intention to comply with, the conditions of this Approval. The person providing such written notification shall be a corporate officer of Poor Charlie. This Approval shall be revoked if the EPA does not receive written notification from Poor Charlie of its acceptance of, and intention to comply with, the conditions and terms of this Approval within fifteen (15) business days of Poor Charlie's receipt of said Approval.
2. This Approval shall expire ten (10) years from the date of signature, unless extended, renewed, suspended, modified, revoked, or terminated in accordance with the conditions stated herein.
3. Application for renewal or extension of this Approval shall be made in writing at least 180 days, but not more than 270 days, prior to the expiration date. Application for renewal must include information to demonstrate that the Engineered Barrier, institutional controls, and monitoring requirements remain effective in mitigating risks from PCBs and in identifying PCB migration from the Site, and that Poor Charlie (or a subsequent owner of the property subject to the terms of this Approval) has met and will continue to meet all conditions of this Approval. In reviewing the application for renewal, EPA will consider whether long-term monitoring and maintenance measures are effective, if additional measures are necessary to ensure no unreasonable risk to human health or the environment, and whether Approval conditions have been met. EPA may require the submission of additional information in connection with any renewal application.
4. Approval for these activities may be revoked, modified or otherwise altered at any time EPA finds a violation of the conditions of this Approval or of 40 CFR Part 761, including EPA's PCB Spill Cleanup Policy, or other applicable rules and regulations; if EPA finds that these activities present an unreasonable risk to public health or the environment; or if EPA finds that changes are necessary to comply with new rules, standards, or guidance for such approvals. Poor Charlie may apply for such a modification in the event new rules, standards, or guidance come into effect.
5. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. §2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to the project and the Site described in the Application.
6. Poor Charlie must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill during remedial actions, Poor

Charlie shall comply with the EPA's PCB Spill Cleanup Policy under 40 CFR Part 761, Subpart G (which applies to spills less than 72 hours old), if applicable.

7. Poor Charlie is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities governed by this Approval. If at any time Poor Charlie has or receives information indicating that Poor Charlie or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within 24 hours of having or receiving the information.

#### **REVIEW OF WORK PLANS AND ON-SITE ACTIVITIES**

8. At least 30 days prior to amending activities authorized under this Approval and described in the Application, Poor Charlie shall submit for EPA's review and approval, any amendments to the work plan that details the proposed change in the remedy at the Site. The amended work plan information shall include but not be limited to, the following components and associated schedules:

Plans and specifications for the Engineered Barrier, the final grading, the drainage and the parking;

Environmental and groundwater monitoring plans during remedy implementation;

Post-closure Operation, Maintenance and Monitoring (OMM) for the Engineered Barrier and for the groundwater; and

Post-closure reporting, including the Activity and Use Limitation.

9. If the work plan will be implemented in phases, Poor Charlie may submit work plans for each phase or type of activity. Work plans must be submitted to EPA for review and approval at least 30 days prior to conducting any activities under a work plan.
10. The Division Director of the Land and Chemicals Division will respond to each submission required under Conditions 8 and 9 above, notifying Poor Charlie of any additional requirements to be addressed.

#### **USE CONDITIONS AND DEED RESTRICTION**

11. Within sixty (60) days of completing the activities described in the Application and in the approved work plans, Poor Charlie shall submit for EPA's review and approval, a Land Use Covenant (LUC, i.e., a deed restriction) for the Site. The LUC shall include: a description of the extent and levels of contamination at the Site following remediation; a description of the actions taken at the Site; a description of the use restrictions for the Site; and the long-term monitoring and maintenance requirements on the Site. Within sixty (60) days of EPA's acceptance of the LUC, Poor Charlie shall record the LUC in the Registry of Deeds, Charleston, West Virginia. A copy of this Approval shall be attached to the LUC. Within 15 business days of the recording, LUC shall submit to the EPA a copy of the LUC, with a certification by a corporate officer that Poor Charlie has recorded the LUC and Approval as required above.

12. Any modification(s) in the plan, specifications, or information submitted by Poor Charlie, contained in the Application, and forming the basis upon which this Approval has been issued, must receive prior written approval from the EPA. Poor Charlie shall inform the EPA of any modification, in writing, at least 10 days prior to such change. No action may be taken to implement any such modification unless the EPA has approved of the modification, in writing. The EPA may request additional information in order to determine whether to approve the modification.

If such modification involves a change in the use of the Site which results in exposures not considered in the Application, the EPA may revoke, suspend, and/or modify this Approval if it finds that this risk-based cleanup and disposal action may pose an unreasonable risk of injury to health or the environment due to the change in use. EPA may take similar action if the EPA does not receive requested information from Poor Charlie needed to make a determination regarding potential risk.

#### **SALE, LEASE OR TRANSFER OF SITE**

13. Poor Charlie shall notify the EPA of the sale, lease or transfer of any portion of the Site, in writing, no later than 30 days prior to such action. This notification shall include the name, address, and telephone number of the new owner(s). In the event that Poor Charlie sells, leases or transfers any portion of the Site, Poor Charlie shall continue to be bound by all the terms and conditions of this Approval, unless EPA allocates some or all of this Approval's responsibilities to the new owner through the issuance of a new approval. The procedures for the issuance of a new approval are as follows:
- a. The new owner(s), leasee or transfer entity must request, in writing, that the EPA issue an approval to the new owner(s), leasee or transfer entity which transfers some or all responsibilities to comply with the terms and conditions of this Approval to that entity or entities;
  - b. The EPA issues an approval to the new owner(s), leasee or transfer entity which transfers particular responsibilities, or all responsibilities, to comply with the terms and conditions of this Approval to that entity or entities;
  - c. The new owner(s), leasee or transfer entity provides written notification to the EPA of its acceptance of and intention to comply with the terms and conditions of the reissued approval. The reissued approval may be withdrawn if the EPA does not receive written notification from the new owner(s), leasee or transfer entity of its acceptance of, and intention to comply with, the terms and conditions of the reissued Approval within 30 days of the date of the reissued approval. Under such circumstances, all terms and conditions of this Approval will continue to be binding on Poor Charlie; and
  - d. In the event that the sale, lease or transfer of the Site will involve or result in a change in the use of the Site, EPA may revoke, suspend, and/or modify this Approval if it finds, due to the change in use, that this risk-based cleanup and disposal action will not be protective of health or the environment. Any amendment to the LUC, resulting from any approved modification(s), shall be recorded within 60 days of such change(s).

14. In any sale, lease or transfer of the Site, Poor Charlie shall retain sufficient access rights to enable it to continue to meet its obligations under this Approval for groundwater monitoring and treatment, for maintenance of groundwater monitoring systems, and for maintenance of the engineered cap.

### **INSPECTION AND REVOCATION CONDITIONS**

15. Poor Charlie shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by Poor Charlie to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.
16. This Approval, issued pursuant to 40 C.F.R. § 761.61(c), is based on full and forthright disclosure by Poor Charlie of all material facts. Any misrepresentation or omission by Poor Charlie of any material fact in the application may result in the EPA's revocation, suspension and/or modification of this Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
17. Minor modifications to the conditions of this Approval may be authorized, in writing, by the Division Director of the Land and Chemicals Division. Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the initiation of revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.

### **RECORDKEEPING AND REPORTING**

18. Poor Charlie shall submit a Final Completion and Inspection Report (Report) to the EPA within 120 days of completion of the activities described under this Approval. At a minimum, this Report shall include: a narrative of the project activities; characterization and confirmation sampling analytical results; copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCBs removed and disposed of on-site and off-site; copies of manifests; copies of certificates of disposal or similar certifications issued by the disposer, if applicable; and any "As-Built Construction Reports." The Report shall also include a Completion Statement signed and sealed by a registered Licensed Site Professional or Professional Engineer in the State of West Virginia verifying that the activities have been implemented in accordance with this Approval and the Application.
19. Poor Charlie shall prepare and maintain all records and documents required by 40 CFR Part 761, including but not limited to the records required by Subparts J and K. Poor Charlie shall maintain a written record of the operations and the analytical sampling for activities conducted under this Approval, for at least 10 years at its corporate headquarters. All records shall be made available for inspection by authorized representatives of the EPA.
20. Questions regarding this Approval and required submittals shall be mailed/directed to:

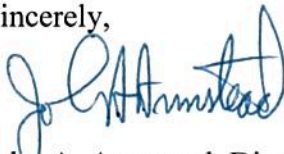


Scott Rice, Environmental Protection Specialist  
United States Environmental Protection Agency  
1060 Chapline Street  
Wheeling, West Virginia 26003  
Telephone: (304) 231-0501  
E-mail: rice.scott@epa.gov

The EPA finds that the activities to be authorized under this Approval will not present an unreasonable risk of injury to health or the environment. Nothing in this Approval is intended or is to be construed to prejudice any right or remedy concerning PCBs or other federally-regulated contaminants at the Site otherwise available under Section 6 of TSCA, 15 U.S.C. § 2605, 40 CFR Part 761, or other provisions of federal law.

EPA shall not consider this cleanup complete until it has received all submittals required under this Approval. Should you have any questions on this matter, please contact Scott Rice at (304) 231-0501.

Sincerely,

A handwritten signature in blue ink, appearing to read "John A. Armstead", is written over a horizontal line.

John A. Armstead, Director  
Land and Chemicals Division